

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:11-HC-2051-BR

UNITED STATES OF AMERICA,)	
)	
Petitioner,)	
)	
v.)	<u>ORDER</u>
)	
LEO STEPHENS,)	
)	
Respondent.)	

This case comes before the court on Petitioner's Motion for Voluntary Dismissal With Leave of Court and With Prejudice (DE # 54), along with the accompanying Settlement Agreement appended thereto (DE # 54-1). The motion was referred to Magistrate Judge James E. Gates (see DE # 54), who held a hearing on it on 2 March 2012 (see DE # 58) pursuant to the referral and with the consent of the parties (DE # 59). In a Memorandum and Recommendation ("M&R") issued on 2 March 2012 by Judge Gates, he found that the Settlement Agreement was knowingly and voluntarily entered into and recommended allowance of the motion, and dismissal of the case as proposed by the parties. (M&R, DE # 60, at 2.) The parties have waived their right to object to the M&R and have requested that the M&R be adopted by the undersigned. (DE # 61.)

The court hereby ADOPTS the M&R as its own, and FINDS that respondent was fully competent to enter into the Settlement Agreement and that he knowingly and voluntarily did so after having an adequate opportunity to confer with counsel, and that the government also knowingly and voluntarily entered into the Settlement Agreement.

It is therefore ORDERED that:

1. the motion (DE # 54) is ALLOWED;
2. this case is DISMISSED WITH PREJUDICE pursuant to Federal Rule of Civil Procedure 41(a)(2);
3. the stay of respondent's release from Federal Bureau of Prisons custody is LIFTED and respondent shall be RELEASED forthwith from Federal Bureau of Prisons custody; and
4. respondent shall report to the United States Probation Office for the United States District Court for the Southern District of Mississippi within 72 hours of his release in accordance with the criminal judgment filed on 2 September 2010 by that court in the case of United States v. Leo Stephens, Case No. 4:08-CR-5-HTW-LRA (DE # 18). The Clerk is DIRECTED to send a copy of this order to the Clerk of Court for the Southern District of Mississippi, U.S. District Court, P.O. Box 23552, Jackson, MS 39225-3552.
5. respondent's 1 November 2011 motion to dismiss (DE # 30) is DENIED AS MOOT.

This 2 March 2012.



W. Earl Britt
Senior U.S. District Judge